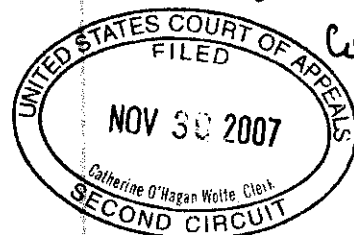


EDNY (Brooklyn)  
05-cv-4998

Cogan



FILED  
CLERK

UNITED STATES COURT OF APPEALS 15 PM 1:28  
FOR THE SECOND CIRCUIT

ARI WEITZNER, M.D., P.C., Individually and  
On Behalf of All Others Similarly Situated,

07-4374-cv

*Plaintiff-Appellant,*

**STIPULATION WITHDRAWING  
APPEAL FROM ACTIVE  
CONSIDERATION, WITHOUT  
PREJUDICE, AND WITH  
LEAVE TO REACTIVATE**

-against-

COMMERCIAL LIGHTING INDUSTRIES, INC.,

*Defendant-Respondent.*

IT IS HEREBY STIPULATED BY THE PARTIES that the above-captioned <sup>appeal</sup> ~~captioned~~ is hereby withdrawn from active consideration from the Court, such withdrawal to be without prejudice to a reactivation of the appeal by Appellant's counsel so notifying the Clerk of this Court in writing 30 days after this Court decides *Bonime v. Avaya, Inc.* ("Bonime"), Case No. 07-1136, and *Holster v. Wirtenberg Assoc., Inc.* ("Holster"), Case No. 07-2191, or December 29, 2008, whichever comes first, which have been consolidated for argument. If not thus reactivated, the appeal shall be subject to dismissal with prejudice.

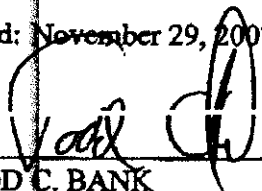
Withdrawal of the appeal from active consideration shall NOT operate as a dismissal of the appeal under FRAP 42(b).

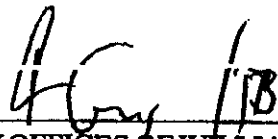
CERTIFIED:

12/10/07

IT IS HEREBY FURTHER STIPULATED BY THE PARTIES that: (1) in the event that this Court reverses *Bonime/Holster*, Appellees will consent to a remand to the District Court; and (2) in the event that the Second Circuit affirms *Bonime/Holster*, Appellant will voluntarily dismiss the present appeal with prejudice.

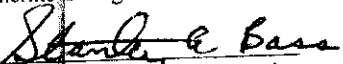
Dated: November 29, 2007

  
TODD C. BANK  
Attorney for Plaintiff-Appellant  
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LAW OFFICES OF WILLIAM T. LAVELLE, P.C.  
Attorney for Defendant-Respondent  
57 East Main Street  
Patchogue, New York 11772  
(631) 475-0001


By: 

SO ORDERED

FOR THE COURT  
Catherine O'Hagan Wolfe, Clerk of Court  
By   
Stanley A. Bass, Staff Counsel

Nov 30, 2007

A TRUE COPY  
Catherine O'Hagan Wolfe, Clerk

by   
DEPUTY CLERK